IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2006

CORAM

THE HONOURABLE MR.JUSTICE D.MURUGESAN

W.P.No.2684 of 2006

S.Arulselvan
Kovilpatti .. Petitioner

-Vs-

1. The Government of Tamil Nadu
   rep. by its Secretary to Government
   Education Department
   Fort St.George
   Chennai 600 009

2. Teachers Recruitment Board
   Government of Tamil Nadu
   rep.by its Chairman
   4th Floor, EVK Sampath Maligai
   DPI Compound, College Road
   Chennai 600 006 .. Respondents

Petition filed under Article 226 of The Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the Prospectus issued by the 2nd respondent for Direct Recruitment of Lecturers in Government Engineering Colleges/Polytechnics (2005-06) and to quash Clause 5 regarding Qualifications insofar as it excludes First Class Master's Degree in the branch of Engineering as alternative qualification and to direct the Respondents to include First Class Master's Degree as an alternative qualification for the post of Lecturers in Government Engineering Colleges/Polytechnics (2005-06).

For Petitioner :: Mr.K.M.Ramesh

For Respondents :: Mr.R.Muthukumaraswamy
Addl. Advocate General
assisted by
Mr.V.Karthikeyan
Addl. Government Pleader
(Education)

ORDER

The petitioner is a B.E.(Mech.Engg.) Degree holder with 57.75% marks. He is also a M.E.(Prod.) Degree holder with 63.66% marks. He has approached this Court questioning Clause 5 of the prospectus issued by the Teachers Recruitment Board for direct recruitment of Lecturers in the Government Engineering Colleges/Polytechnics (2005-

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06), as the said clause excludes the First Class Master's Degree in the branch of engineering as an alternative qualification.

2. I heard Mr.K.M.Ramesh, the learned counsel for the petitioner and Mr.R.Muthukumaraswamy, the learned Additional Advocate General for the respondents.

3. The Government of Tamil Nadu decided to recruit Lecturers and Senior Lecturers for appointment in Government Engineering Colleges/Polytechnics (2005-06) by direct recruitment through the Teachers' Recruitment Board, Chennai. In the prospectus, among other eligibility norms, the minimum educational qualification is also prescribed. Clause 5 of the prospectus reads as follows:-

	Subjects	Qualifications
LECTU-RERS	ENGLISH, MATHEMATICS PHYSICS, CHEMISTRY and COMMERCE	A First Class Master's Degree in the appropriate branch of study.
LECTU-RERS	(For all other subjects)	A First Class Bachelor's degree in the branch of Engineering relating to the post concerned.
SENIOR LECTU-RERS	SPINNING and WEAVING	(a) A First Class Bachelor's degree in Textile Technology and (b) 5 years experience in teaching/industry/research at the level of Lecturer or equivalent grade in Spinning & Weaving.
SENIOR LECTU-RERS	TEXTILE CHEMISTRY	(a) A First Class Bachelor's degree in Textile Technology and (b) 5 years experience in teaching/industry/research at the level of Lecturer or equivalent grade in Textile Processing.

4. Mr.K.M.Ramesh, the learned counsel appearing for the petitioner has submitted that Clause 5 prescribes the minimum eligibility of a First class Master's Degree in the appropriate branch of study for the post of Lecturers in English, Mathematics, Physics, Chemistry and Commerce, but it has restricted the qualification for the post of Lecturers for all other subjects by fixing the qualification as a First Class Bachelor's Degree in the branch of engineering relating to the post concerned. Prescription of a different educational qualification for the post of Lecturers on the basis of the subjects is discriminatory. He would also submit that inasmuch as the All India Council for Technical Education Notification also prescribes the educational qualification requiring a First Class Master's Degree in the appropriate branch of engineering/technology, the State Government cannot fix any educational qualification which are not in tune with the norms prescribed by AICTE. In this context, he would refer to Table E-I of Appendix-E of the AICTE Notification relating to the Minimum Qualification and Experience prescribed for Teaching Post in Degree

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Level Technical Institutions relating to the Engineering and Technology disciplines, which reads as follows:-

SL. NO.	CADRE	QUALIFICATION	EXPERIENCE	QUALIFICATION & EXPERIENCE FOR CANDIDATES FROM INDUSTRY & PROFESSION
1	Lecturer	First Class Bachelor's degree in the appropriate branch of engineering/ technology or First Class Master's Degree in the appropriate branch of engineering/ technology	No minimum requirement	

He would submit that if the educational qualification relating to the mechanical engineering branch to which the petitioner would be eligible to apply, is allowed to stand, he would not be qualified, as he is only a Second Class Bachelor's Degree holder in B.E. (Mech.Engg.). Hence, he is aggrieved by the said clause.

5. Mr.R.Muthukumaraswamy, the learned Additional Advocate General appearing for the respondents, on the other hand, would submit that the notification relating to the minimum qualification relied upon by the petitioner are only guidelines and the same have not been issued in terms of Section 10 of the All India Council for Technical Education Act, 1987. In the absence of the same, the petitioner cannot rely upon the said notification relating to the educational qualification. He would also submit that in any event the notification basically relates to the scheme for revision of pay scales. Even in the guidelines, a discretion is left with the State Government to adopt and implement the scheme and in such event, the State Government shall be provided with financial assistance. He would further submit that the Government had issued an amendment to the Special Rules of the Tamil Nadu Educational Service relating to the post of Lecturers in Government Engineering Colleges in G.O.Ms.No.643, Higher Education (B1) Department dated 26.12.1997. The said rules were framed under Article 309 of The Constitution of India. As per the said rule, the following is the prescribed qualification:-

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SL. NO.	CADRE	QUALIFICATION
1	Lecturer	i. First Class Bachelor's Degree in appropriate branch of Engineering/ Technology. or ii. First Class Master's Degree in appropriate branch of study in the case of teaching posts in Humanities and Science.

He would therefore submit that inasmuch as the said rule requires only a First Class Bachelor's Degree in the appropriate branch of engineering/technology for the post of Lecturer, the qualification prescribed in Clause 5 of the prospectus is in conformity with the said special rules.

6. I have given my due consideration to the above submissions. It is well settled law that a prospectus is a piece of information to the candidates stipulating the eligibility norms/restrictions regarding the educational qualification, etc. The prospectus is binding not only on the candidates, but also on the Government and as well on the authorities involved in the process of selection. This consistent view had been taken in number of cases. To quote, the following are few of them.

(1) "K.Suganthi Vs. State of Tamil Nadu rep. by its Secretary and Commissioner to Dept. of Health and Medical Education, Madras-9 & two others (1984 Writ L.R. 249".

(2) "Dr.A.Rathnaswamy Vs. Director of Medical Education, Madras & three others (1986 Writ L.R. 207".

(3) "Midhuna Nathan Vs. State of Tamil Nadu rep. by its Secretary, Department of Health, Fort St.George, Madras & seven others (1995 Writ L.R. 851)".

7. It is also equally well settled that the norms and procedures prescribed in the prospectus should be strictly followed and the authorities cannot ignore/deviate from the same, as has been held by the Supreme Court in the decisions in "State of Uttar Pradesh Vs. Chandra Mohan and others (AIR 1977 SC 2411)", in "Ramana Dayaram Shetty Vs. The International Airport Authority of India and others (AIR 1979 SC 1628)", by a Full Bench of this Court in the decision in "P.A.Manickam Vs. The Government of Tamil Nadu rep. by the Deputy Secretary, Home Department, Madras (1984 Writ L.R. 1)" and as well by a Division Bench of this Court in "G.Sumathi Vs. The Director of Medical Education, Madras & four others (1993 Writ L.R.344)".

8. The scope of judicial review over the prospectus is restricted, as the Court has no power to either alter, amend or introduce a new clause in the prospectus, as has been held in "Miss.Romini Susan Kurian Vs. State of A.P. And others (AIR 1992

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A.P. 380)". It will not be within the jurisdiction of the Court either to amend, alter or to add something into the prospectus, as it would be the function of the State in exercise of the powers under Article 162 of The Constitution of India. The eligibility norms, age restrictions and educational qualifications are prescribed in the prospectus as per the policy of the Government consistent with the rules in vogue. The scope of review is restricted only if a clause is contrary to the rules, ex-facie arbitrary, unreasonable and consequently amount to discrimination.

9. Keeping the above in mind, the challenge to clause 5 of the prospectus relating to the educational qualification shall be considered. So far as the fixation of educational qualification is concerned, there cannot be any dispute that the educational qualification must be prescribed in conformity with the educational qualifications prescribed in the All India Council for Technical Education Act. The notification relied upon by Mr.K.M.Ramesh, the learned counsel for the petitioner stipulates a First Class Bachelor's Degree in the appropriate branch of engineering/technology or a First Class Master's Degree in the appropriate branch of engineering/technology. Regulations relating to the educational qualification, among other norms, must be made by the All India Council for Technical Education in terms of Section 10 (1)(i) of the All India Council for Technical Education Act. Learned counsel for the petitioner relied upon Table E-I of Appendix-E relating to the Minimum Qualification and Experience prescribed for Teaching Post in Degree Level Technical Institutions relating to the Engineering and Technology disciplines. In this regard, a notification was issued by AICTE for revision of pay scales and service conditions and the same are only in the form of guidelines and it cannot be construed to be the Regulations made under Section 10(1)(i) of the Act. Moreover, as per the said guidelines, the qualification prescribed is a First Class Bachelor's Degree in the appropriate branch of engineering/technology or a First Class Master's Degree in the appropriate branch of engineering/technology. Even if the said guideline is applied, it is for the respondents to prescribe the educational qualification either by stipulating a First Class Bachelor's Degree in the appropriate branch of engineering/technology or in the alternative, a First Class Master's Degree in the appropriate branch of engineering/technology. When such a discretion is vested, it cannot be contended that prescription of a First Class Bachelor's Degree for the post of Lecturers in the engineering subjects would be contrary to the educational qualification prescribed by the All India Council for Technical Education. It is further contended that inasmuch as the educational qualification relating to English, Mathematics, Physics, Chemistry and Commerce subjects requires a First Class Master's Degree, prescription of only a First Class Bachelor's Degree for engineering subjects would be discriminatory, arbitrary and unreasonable. This argument is also based on misreading of the rules relating to the educational qualification, framed both under Article 309 of The Constitution of India as well as notified by the All India Council for Technical Education. As per the qualification prescribed by the All India Council for Technical Education inasmuch as a First Class Master's Degree in the appropriate branch of engineering, the said prescription is only

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optional. Secondly, as per the rules framed under Article 309 of The Constitution of India, again it contemplates the educational qualification for the post of Lecturers as a First Class Bachelor's Degree in the appropriate branch of engineering/technology or a First Class Master's Degree in the appropriate branch of study in the case of teaching posts in Humanities and Science. The word "or" has to be read as optional and is not in addition to the First Class Bachelor's Degree. In my opinion, clause 5 of the prospectus relating to the qualification has been prescribed in conformity with the rules framed under Article 309 of The Constitution of India. So long as the rules are not questioned, this Court cannot hold that the impugned clause in the prospectus is either arbitrary, unreasonable and discriminatory.

10. For all the above reasons, I do not find any merit in the writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently, W.P.M.P.Nos.2784 & 2785 of 2006 are also dismissed.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

ss

To

1. The Secretary to Government
   of Tamil Nadu
   Education Department
   Fort St.George
   Chennai 600 009

2. The Chairman
   Teachers Recruitment Board
   4th Floor, EVK Sampath Maligai
   DPI Compound, College Road,
   Chennai 600 006

1 cc to Mr.K.M.Ramesh, Advocate, Sr. 7450

W.P.No.2684 of 2006

VS (CO)
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